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on the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Forty-ninth session

PR

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

Brazil

1. The Committee considered the tenth, eleventh, twelfth and thirteenth periodic reports of Brazil submitted in a single document (CERD/C/263/Add.10), at its 1157th, 1158th and 1159th meetings (CERD/C/SR.1157-1159), on 5 August and 6 August 1996. At its 1177th meeting, on 19 August 1996, it adopted the following concluding observations.

A Introduction

2. The Committee welcomes the resumption of the dialogue with the Government of Brazil after a nine-year break. It expresses its satisfaction to the State party for the frankness of its report and the explanations provided by the delegation. However, it regrets that the report submitted contains little specific information on the implementation of the Convention in practice. In this connection, the Committee takes note of the delegation's statement that the State party is ready to continue the dialogue in the near future and to provide it with fuller information on the measures taken to give effect to the Convention.

3. The Committee notes that the State party has not made the declaration provided for by article 14 of the Convention; some members of the Committee requested that it should consider the possibility of doing so.

B. Factors and difficulties impeding the implementation of the Convention

4. The Committee recognizes that Brazil is a country with a very sizeable geographical area and population and that, during the past decade, it has undergone far-reaching political, economic and social changes. In spite of numerous structural, political, economic and social reforms, the authorities have not managed to control endemic poverty, thus exacerbating the social inequalities affecting the black, indigenous and mestizo populations in particular, and encouraging the emergence of a culture of violence.

C. Positive aspects

5. The recent legislative and institutional measures taken by the Government of Brazil to bring national legislation more into line with the Convention and to improve protection of the fundamental rights of the most vulnerable communities are welcomed. In this connection, the Committee takes particular note of the adoption of the new Constitution in 1988 and the recent establishment of a human rights commission, an inter-ministerial working group for the promotion of the black population and a ministry of agrarian reform and the promulgation of a national human rights plan. The creation, on an experimental basis, of a police station to deal specially with cases of racial discrimination should also be highlighted.

6. The determination expressed by the delegation to ratify shortly ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries is a step forward which the Committee hopes Brazil will take as soon as possible.

7. Active participation by members of society at large in drafting the State party's report is a welcome development, as is the determination expressed by the Brazilian authorities to disseminate widely the report and the Committee's concluding observations.

D. Principal subjects of concern

8. The statistical and qualitative information on the demographic composition of Brazil's population and on the enjoyment of political, economic, social and cultural rights provided in the State party's report clearly show that the indigenous, black and mestizo communities suffer from deep structural inequalities and that the measures taken by the Government effectively to combat those disparities are still insufficient.

9. The Committee notes that the report contains no information on the "indicators" of the particular social difficulties encountered by the most vulnerable populations, especially the indigenous, black and mestizo populations.

10. A number of sources of information concur that discriminatory attitudes towards the indigenous, black and mestizo populations persist within Brazilian society and are apparent at a number of levels in the political, economic and social life of the country. These discriminatory attitudes concern,

inter alia, the right to life and security of person, political participation, access to education and employment, access to basic public services, the right to health, the right to decent housing, land ownership, land use and law enforcement.

11. Special concern is expressed about the fate of the most vulnerable populations, in particular indigenous people, blacks and mestizos.

12. Regarding the implementation of article 2 of the Convention, the Committee notes with concern the slow pace of certain legislative reforms, in particular the reform of the Criminal Code. The Committee notes with concern the maintenance of article 6 of the 1916 Civil Code of Brazil, containing a discriminatory restriction on the exercise of civil rights by the indigenous populations which is contrary to 1988 Constitution of Brazil, although according to the explanations of the representative of Brazil this provision has become obsolete.

13. The fact that illiterate citizens, who are found especially among the indigenous, black or mestizo population, or other vulnerable groups, cannot be elected in political elections is contrary to the spirit of article 5 (c) of the Convention.

14. Particular note is taken of the fact that the indigenous populations encounter serious discrimination in regard to enjoyment of their civil, political, economic, social and cultural rights. Special concern is expressed about the unfair treatment of the indigenous populations during land demarcation and distribution, the violent and unlawful means used to settle numerous land disputes and the violence and intimidation used against them by private militias and even occasionally by members of the military police. Concern is also expressed about their social protection and the discrimination they suffer in the spheres of health, education, culture, employment, access to public office and housing.

15. Regarding the implementation of article 6 of the Convention, the Committee notes with regret that the information provided on cases in which judicial remedies were exercised by the victims of acts of racial discrimination was insufficient and did not allow a proper assessment to be made.

E. Suggestions and recommendations

16. The Committee hopes that the State party will continue and strengthen its efforts to improve the effectiveness of measures and programmes designed to ensure that all groups of the population fully enjoy their political, economic, social and cultural rights. The Committee also recommends that the State party devote due attention to developing programmes to foster awareness of human rights and of the need for tolerance, in order to prevent social and racial discrimination and prejudice.

17. The Committee requests the Government of Brazil to provide, in its next periodic report, precise information and "indicators" on the social difficulties encountered by the indigenous black and mestizo populations, and in particular on rates of unemployment, imprisonment, alcoholism, drug use,

delinquency and suicide. The Committee also draws the State party's attention to the need to devise "indicators" to assess policies and programmes for protecting and promoting the rights of the vulnerable populations.

18. The Committee recommends that the State party should do everything possible to speed up the current legislative reforms and, more specifically, to amend article 6 of 1916 Civil Code of Brazil, which is contrary to its 1988 Constitution. The State party should also take measures to allow illiterate citizens from the most underprivileged population groups to be elected in political elections.

19. The Committee recommends that the Government of Brazil put more vigorously into practice its determination to defend the fundamental rights of indigenous people, blacks, mestizos and members of other vulnerable groups, who are regularly the victims of serious intimidation and violence, sometimes leading to their death. It hopes that the authorities concerned will systematically prosecute those guilty of such crimes, whether they are members of private militias or State officials, and will take effective preventive measures, especially through training for the members of the military police. In addition, the State party should ensure that the victims of such acts receive compensation and are rehabilitated.

20. The Committee strongly recommends that the State party should adopt fair and equitable solutions for the demarcation, distribution and restitution of land. To that end, where land disputes are concerned, everything possible should be done to prevent discrimination against indigenous people, blacks or mestizos by the big landowners.

21. The Committee encourages the State party to ratify ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.

22. The Committee recommends that the next periodic report of Brazil contain detailed information on complaints filed by the victims of acts of racial discrimination and on how they were dealt with by the courts.

23. The Committee recommends that the State party give nationwide publicity to its thirteenth periodic report and the Committee's concluding observations thereon.

24. The Committee recommends that the State party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention which were adopted by the 14th meeting of State parties.

25. The Committee recommends that the State party's next periodic report, which is due on 4 January 1998, contain an update of the previous report and focus on all the points raised in the present concluding observations.